STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-697

October 24, 2000

BANGOR GAS COMPANY, LLC
Proposed Cost of Gas Adjustment
(§4703)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

We approve Bangor Gas Company LLC's (Bangor Gas) proposed method of determining its Cost of Gas Adjustment for the 2000-2001 winter period, but require the Company to update its tariffed rate to reflect current gas futures prices as of the date of this Order. We also require the Company to state clearly in any customer information and marketing materials, including its filed tariff, that the Company's actual gas costs for the 2000–2001 winter period will fluctuate with market prices and that any variations in cost that result in an over- or under-collection of total gas cost revenues during the winter 2000-2001 will be reconciled in the following winter period gas adjustment rate.

II. PROCEDURAL HISTORY

On August 15, 2000, Bangor Gas filed its proposed cost of gas adjustment (CGA) for the winter 2000-2001 period. The Hearing Examiner issued a Notice of Proceeding setting the deadline for intervention and a preliminary hearing on the case.

On September 14, 2000, the Office of the Public Advocate filed a timely petition to intervene, which was subsequently granted by the Hearing Examiner. On September 25, 2000, MODA and Sprague Energy filed timely petitions to intervene in this proceeding. Bangor Gas filed its objection to MODA and Sprague Energy's petitions to intervene on September 28, 2000.

A preliminary hearing was held on September 28, 2000 to discuss petitions to intervene, identify the issues in this case, and conduct oral discovery on Bangor Gas's proposal through its witness, Roger Schwecke. At the preliminary hearing in this case, both MODA and Sprague indicated that they did not object to Bangor Gas's proposed gas adjustment rate or to its supply proposal for the winter 2000 - 2001 period.

On October 6, 2000, the Hearing Examiner issued an Examiner's Report recommending that MODA and Sprague Energy be denied intervention in this case. MODA filed exceptions to the Examiner's Report on October 12, 2000.

The Commission deliberated this matter on October 18, 2000 and denied the interventions of MODA and Sprague Energy.

On October 16, 2000, the Hearing Examiner issued an Examiner's Report recommending apparoval of Bangor Gas's proposal with certain conditions. Bangor Gas and OPA filed exceptions. This matter was deliberated on October 23, 2000.

III. DESCRIPTION OF BANGOR GAS'S PROPOSAL

In this filing, Bangor Gas seeks to establish an estimated cost of gas rate to apply to any customers who take service in the upcoming winter period. Bangor Gas is a start-up gas distribution utility whose gas supply requirements may change daily as customers are added. Bangor Gas does not plan to manage the gas procurement function in-house at this time.

Because its actual gas requirements for the upcoming winter period cannot be forecast with confidence, Bangor Gas proposes to contract with a supplier to provide gas at market prices throughout the winter period as those needs arise. [1] Bangor Gas asserts that the current natural gas futures prices are the best indicators of market prices and, thus, its expected gas costs for the upcoming winter period.

In testimony, Bangor Gas states that:

- it intends to "contract for gas supplies prior to any customer using natural gas in the service territory;"
- it does "not currently plan to manage the natural gas procurement function in-house for the upcoming winter period;" and
- it "will be entering into an arrangement with an established major gas supplier operating nationally."

Schwecke Test. at 5-6.

In its testimony, Bangor Gas outlined the components of a "normal" Cost of Gas Adjustment, such as storage, injection or withdrawal capacity charges, balancing fees or charges, carrying costs on gas in storage, consistent with its filed tariff in Docket No. 99-531. However, the rate proposed by Bangor Gas does not reflect many of these components because it has not contracted for, used or sold any gas to date. Bangor Gas also asserts that the terms of this supply procurement proposal for this initial winter period remove the need for a forecast of sales.

[1] Bangor Gas currently serves no customers.

Calculated using a methodology intended to produce a proxy for market price, Bangor Gas's proposed 2000-2001 winter CGA would increase the energy charge for all classes of customers from the current tariff rate of $0.350 per therm to $0.486 per therm. The new rate is based on projected costs of natural gas in the region based upon an average of futures prices, as reported in the Wall Street Journal on August 14, 2000, adjusted for additional costs to transport gas supplies to New England.

IV. ANALYSIS

Bangor Gas is intending to contract for gas supplies with an outside supplier prior to any customer's using natural gas in the service territory, but has not yet negotiated or signed a contract. Thus, we do not know what the terms of this contract will be.

Given this uncertainty, Bangor Gas proposes that we set the CGA rate based on the natural gas futures prices reported in the Wall Street Journal of August 14, 2000 (the day before Bangor Gas's filing) plus an adder representing transport costs. This adder was calculated as the difference between the Tennessee Zone 6[2] and NYMEX for the winter of 1999-2000. Bangor Gas states that this price is a proxy for the forecast commodity price that would be delivered into Bangor Gas's system.

Bangor Gas's proposal raises two issues: (1) Is setting an estimated CGA rate for Bangor Gas prior to its entering into a gas purchase contract reasonable? (2) Is Bangor Gas's proposed CGA rate a reasonable proxy for market price during the 2000 – 2001 winter period?

Because the CGA is reconcilable, Bangor Gas's customers will ultimately pay the actual contract costs regardless of the CGA rate we set in this order. In that regard, the Company will be entitled to recover its actual gas costs if they are different from those on which an estimated rate is based.

Of greater concern, then, is the impact of this estimate as a tariff rate on customers or potential customers as they decide whether to sign up for gas service. Clearly, the CGA rate may influence these decisions. As Mr. Schwecke testified:

> What we do here today is to establish a rate that we can stick in our tariffs so when a customer is deciding 'am I going to use gas for the coming period?' he has a number.

Tr. A at 35.

---

[2] The Tennessee Zone 6 price is the price one would pay for gas taken off the Tennessee interstate system in New England.

A rate that is too low will provide an unrealistic incentive to customers to change to natural gas or to select Bangor Gas for their gas supplier; a rate that is too high will have the opposite effect. Such a distortion would not well serve the competitive marketplace or consumers.

In these circumstances, we are concerned that potential customers might misinterpret our approval of a CGA tariff rate that is derived in the manner Bangor Gas proposes. However, in some sense, every CGA rate is, at best, an estimate, given that it is inevitably based, at least in part, on forecasted usage, weather, and gas prices.

On the whole, we conclude that because the rate proposed by Bangor Gas uses more recent market indicators, it is a more reasonable CGA rate than the one that appears in Bangor Gas's current tariff, established in 1998. We recognize that there are several impediments to developing a more accurate number at the present time.

First, Mr. Schwecke testified that the actual terms of the gas supply contract remain uncertain.

> In contracting for gas supply on a monthly basis, the contract we may contract with, supply for the 6-month period, may be priced at an index. That index may be the same as the index we have here. They may be plus or minus, a certain portion. A marketer will contract for index minus, or index plus. If it comes back index plus a nickel -- what are those charges for? It could be just for their own administration; but that's the commodity price that they would sell for and include all the services that we've asked for.

Tr. A at 34.

Second, he testified that if there were an index, it would not necessarily be tied to the Tennessee Zone 6 price. While we have no reason to disagree with Mr. Schwecke's recommendation that the Zone 6 futures price with no adder is a reasonable estimate for the future contract price, the rate should be reviewed once the contract is executed to determine whether adjustment is warranted.

Finally, we note that gas prices have increased about 25 percent since August 15, 2000 when Mr. Schwecke's direct testimony was filed. As shown in Table 1, using prices published in the Wall Street Journal of October 13, 2000 with Bangor Gas's proposed methodology produces a CGA rate of $0.602 per therm rather than $0.486 as it calculated in its August 15th filing. Our rate setting practice has recognized that, to accurately reflect the Company's expected costs for gas supplies, the tariff rate should reflect current market and futures prices. When prices are experiencing significant changes, as has been the case recently, setting the tariff rate at an outdated level would mislead customers who are relying on that rate to determine whether to take natural gas service.

V. CONCLUSION

Use of a marketer to secure the necessary gas supplies seems reasonable given the early stage of Bangor Gas Company's service and the inherent difficulty in forecasting customer consumption without the benefit of historical usage information. We approve the Company's proposal to employ a marketer, but require that Bangor Gas submit any and all supply contracts for the winter 2000-2001 period for review to allow us to determine whether the estimated rate remains accurate.[3]

To conclude, we prefer that the tariff to state an updated estimate of the market price for gas rather than an outdated estimate, but we expect that a rate based on the actual supply contract arrangement will likely be the most accurate. For these reasons, we approve an updated CGA rate for Bangor Gas with the following conditions:

First, we direct Bangor Gas to use care in its marketing efforts to ensure that customers understand that the CGA rate may change, possibly before they ever receive service, and that it will be adjusted to reconcile the Company's over- or under-collections with its actual gas costs.

In its exceptions, Bangor Gas objected to this condition on the grounds that it would be burdensome, expensive, and unfair for Bangor Gas to make such a disclaimer in every marketing or sales activity. We believe these concerns can be addressed by limiting those circumstances in which Bangor Gas would be required to explain that its gas cost rate is variable. Specifically, when Bangor Gas's marketing or sales activity uses or refers to particular rates, prices or estimated gas bills for prospective customers, Bangor Gas should explain that the CGA portion of the rate, price or bill is subject to change.

In its exceptions, OPA requested that, Bangor Gas explain to prospective customers that the gas cost rate may either go up or down and that customers would pay the adjusted amount. We appreciate OPA's concern that the explanation given by Bangor Gas should be understandable to customers. We expect Bangor Gas to make it so.

Second, once the contract is signed, we require that Bangor Gas file it in this docket and recommend whether the CGA rate should be adjusted to

[3] If Bangor Gas contracts with an affiliate, it must submit the arrangement for Commission approval pursuant to 35-A M.R.S.A. §707.

accurately reflect the contract terms. We deny Bangor Gas's exception to this requirement. Bangor Gas may present its views on what degree of analysis is warranted to address this matter when it files the contract.

Third, we will approve a revised cost of gas adjustment rate that reflects current futures prices upon receiving a revised, compliance tariff filing by Bangor Gas using the same methodology as their original filing.

Accordingly we

O R D E R

1. That we delegate authority to the Director of Technical Analysis to approve a Cost of Gas Adjustment rate based on futures prices on the date of this Order for implementation by Bangor Gas Company LLC on November 1, 2000, upon filing of a revised tariff in compliance with this order;

2. That Bangor Gas shall file with the Commission its gas supply contract for the 2000 – 2001 Winter period, once executed, and provide a recommendation as to whether the CGA should be adjusted to accurately reflect the contract price and terms; and

3. That, in any marketing or sales activity where specific rates are used, Bangor Gas shall explain to customers that the CGA rate may change and that rates will be adjusted to allow Bangor Gas to collect actual gas costs for the 2000 - 2001 winter period if different from those reflected in its current tariff; and

4. That the Director of the Consumer Assistance Division be delegated authority to waive the requirements of ordering paragraph 3 for specific marketing items where the costs outweigh the benefits of compliance.

Dated at Augusta, Maine, this 24TH day of October, 2000.

BY ORDER OF THE COMMISSION

____

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

sNOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. §9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.